Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM-IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

DuraTherm, 2700 Avenue South, San Leon, Galveston County

Type of Operation:

Waste treatment, storage and disposal facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 13, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$37,233

Amount Deferred for Expedited Settlement: \$7,446 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$14,894

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$14,893

Name of SEP: Galveston Bay Foundation – Marsh Mania

Compliance History Classifications:

Person/CN - Average Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): August 25, 2011

Complaint Information: Alleged waste (oils, metals, etc.) were poured over the

ground causing contamination.

Date(s) of Investigation: September 29, 2011

Date(s) of NOE(s): January 18, 2012

Violation Information

- 1. Failed to prevent the acceptance of a shipment of unauthorized hazardous waste at the Facility. Specifically, the Respondent accepted and processed a shipment of corrosive hazardous waste (hazardous waste code Doo2) that the Facility was not authorized to accept and process [30 Tex. Admin. Code § 335.2(b) and Industrial and Hazardous Waste ("IHW") Permit No. 50355, Provision Nos. IV-A and IV-B].
- 2. Failed to maintain secondary containment free of gaps and cracks. Specifically, secondary containment A for tanks PV-18 through PV-21 had a concrete coating crack about four feet long near PV-20. Secondary containment A-1 for tanks FPV-30 and FPV-31, the containment wall indicated some erosion and the wall edge joining the concrete base had a gap of approximately two inches. Also, the secondary containment for container storage area ("CSA")-2 Roll-off area, Notice of Registration ("NOR") Unit 044, Permitted unit 01, had loose welding and the wall on the back side had developed large open areas from missing panels [30 Tex. Admin. Code §§ 335.152(a)(8) and 305.125 and 40 Code of Federal Regulations ("CFR") § 264.193(e)(1)(iii) and IHW Permit No. 50355, Provision Nos. II-C-2-h and V-B-3].
- 3. Failed to update the Facility's NOR regarding waste management activities. Specifically, the NOR was not updated to show the regulatory status for unit 060, the unit number on the permit and regulatory status for unit 068, the unit number on the permit for unit 069, update the description box comment for unit 059, unit number for CSA-3, and primary Facility contact information [30 Tex. Admin. Code § 335.6(c) and IHW Permit No. 50355, Provision No. II-C-1-h].
- 4. Failed to use a new manifest for rejected wastes. Specifically, waste manifests 005440020 JJK, 005373755 JJK, and 006442062 JJK were received and partially rejected, then sent back to generator without a new manifest [30 Tex. Admin. Code § 335.152(a)(4) and 40 CFR § 262.20 and IHW Permit No. 50355, Provision No. II-C-1-h].
- 5. Failed to maintain hazardous waste containers in a CSA closed except when adding or removing wastes. Specifically, the investigator noted one open container of hazardous waste in CSA-2 NOR Unit 044 [30 Tex. Admin. Code §§ 335.69(a)(1)(A) and 335.112(a) and 40 CFR §§ 262.34(c)(1)(i) and 265.173(a) and IHW Permit No. 50355, Provision No. II-C-1].

- 6. Failed to maintain records of hazardous and industrial solid waste activities. Specifically, at the time of the investigation, the Respondent could not provide records showing the location of satellite accumulation areas [30 Tex. Admin. Code § 335.9(a)(1)(G)].
- 7. Failed to record inspections of the air emission control equipment. Specifically, the Respondent did not maintain a record of the Subpart CC tank inspections for olfactory odors and visual observations [30 Tex. Admin. Code §§ 335.112(a)(21) and 335.152(a)(19) and 40 CFR §§ 264.1089(b) and 265.1090(b)].
- 8. Failed to obtain a used oil registration and Environmental Protection Agency Identification Number ("EPA ID. No.") prior to conducting used oil activities [30 Tex. ADMIN. CODE § 324.12(2) and 40 CFR §§ 279.51 and 279.73].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures at the Facility:

- a. Developed and implemented procedures to ensure that unauthorized hazardous waste is not accepted or processed at the Facility on December 21, 2011;
- b.Submitted documentation on February 15, 2012, showing that the secondary containment has been repaired;
- c.Updated the Facility's NOR on October 18, 2011;
- d. Developed and implemented procedures on October 18, 2011 to ensure that rejected wastes are properly manifested;
- e. Developed and implemented procedures on October 18, 2011 to ensure that hazardous waste containers are kept closed except when adding or removing wastes;
- f. Submitted documentation on October 18, 2011, showing the location of satellite accumulation areas;
- g. Began maintaining a record of the tank inspections on October 18, 2011; and
- h. Obtained a used oil registration and EPA ID No. on December 21, 2011.

Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEO Attorney: N/A

TCEQ Enforcement Coordinator: Mike Pace, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5933; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,

MC 219, (512) 239-3565

Respondent: Eric Gerstenberg, President, DuraTherm, Inc., P.O. Box 58466,

Houston, Texas 77258

Respondent's Attorney: N/A

Attachment A Docket Number: 2012-0236-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:

DuraTherm, Inc.

Payable Penalty

Twenty-Nine Thousand Seven Hundred Eighty-

Amount: Seven Dollars (\$29,787)

SEP Amount:

Fourteen Thousand Eight Hundred Ninety-

Three Dollars (\$14,893)

Type of SEP:

Pre-approved

Third-Party Recipient:

Galveston Bay Foundation - "Marsh Mania"

Location of SEP:

Galveston County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Galveston Bay Foundation to be used for the Galveston Bay Foundation "Marsh Mania" as set forth in the agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

DuraTherm, Inc. Agreed Order - Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

C. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Mr. Bob Stokes, President Galveston Bay Foundation 17330 Highway 3 Webster, Texas 77598

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

DuraTherm, Inc. Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

> Texas Commission on Environmental Quality Financial Administration Division, Revenues Attention: Cashier, MC 214 P.O. Box 13088 Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

Publicity 5.

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

Other SEPs by TCEQ or Other Agencies 7.

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW) Policy Revision 3 (September 2011) PCW Revision August 3, 2011 **ICEQ** Assigned PCW 24-Jan-2012 Screening 24-Jan-2012 **EPA** Due RESPONDENT/FACILITY INFORMATION Respondent DuraTherm, Inc. Reg. Ent. Ref. No. RN100890235 Major/Minor Source Minor Facility/Site Region 12-Houston CASE INFORMATION Enf./Case ID No. 43404 No. of Violations 1 Docket No. 2012-0236-MLM-E Order Type 1660 Government/Non-Profit No Media Program(s) Used Oil Enf. Coordinator Mike Pace Multi-Media Industrial and Hazardous Waste EC's Team Enforcement Team 6 Admin. Penalty \$ Limit Minimum Maximum \$5,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$250 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. \$30 **Compliance History** 12.0% Enhancement Subtotals 2, 3, & 7 Enhancement for one NOV with similar violations, four NOVs with Notes dissimilar violations, and a reduction for one Notice of Audit. 0.0% Enhancement Subtotal 4 \$0 Culpability No The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$62 \$0 0.0% Enhancement* Subtotal 6 Economic Benefit

Total EB Amounts Approx. Cost of Compliance

STATUTORY LIMIT ADJUSTMENT

SUM OF SUBTOTALS 1-7

Reduces the Final Assessed Penalty by the indicted percentage.

Notes

Notes

PAYABLE PENALTY

OTHER FACTORS AS JUSTICE MAY REQUIRE Reduces or enhances the Final Subtotal by the indicated percentage.

*Capped at the Total EB \$ Amount

0.0%

20.0%

(Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

\$218

\$218

\$218

-\$43

\$175

\$0

Final Subtotal

Adjustment

Final Penalty Amount

Final Assessed Penalty

Reduction Adjustment

Screening Date 24-Jan-2012

Respondent DuraTherm, Inc.

Case ID No. 43404 Reg. Ent. Reference No. RN100890235

Media [Statute] Used Oil Enf. Coordinator Mike Pace

Policy Revision 3 (September 2011) PCW Revision August 3, 2011

	Component	ry <i>Site</i> Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.
	NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
		Other written NOVs	4	8%
		Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	O grafia	0%
	Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
	Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
	Emissions	Chronic excessive emissions events (number of events)	0	0%
	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
,			ase Enter Yes or No	
		Environmental management systems in place for one year or more	No	0%
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
		Participation in a voluntary pollution reduction program	No	0%
		Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	and the state of t	Adjustment Per	centage (Subt	total 2)
≀ep	eat Violator (Subtotal 3) Adjustment Per	centage (Subt	total 3)
ا On	L	ry Person Classification (Subtotal 7)		
	Average Pe	Adjustment Per	centage (Subt	total 7)
Con	npliance Histo	ry Summary		
	Compliance History Notes	Enhancement for one NOV with similar violations, four NOVs with dissimilar viol reduction for one Notice of Audit.	ations, and a	
nal	Compliance I	Total Compliance History Adjustment Percentage (S History Adjustment	Subtotals 2, 3	3, & 7) 🗀

Screening Date		Docket No. 2012-0236-MLM-E	PCW
	DuraTherm, Inc.	•	ion 3 (September 2011)
Case ID No Reg. Ent. Reference No		PCW	Revision August 3, 2011
Media [Statute			
Enf. Coordinator	Contract to the contract to th		
Violation Number	process and the second		
Rule Cite(s) 30 Tex. Admin. Code	§ 324.12(2) and 40 Code of Federal Regulations §§ 279.51 and 279.73	
Violation Description	Failed to obtain a u	sed oil registration and Environmental Protection Agency	
Violation Description	' Identification Numb	per ("EPA ID No.") prior to conducting used oil activities.	
		Base Penalty	\$5,000
>> Environmental, Prope	rty and Human He:	alth Matrix	
	Hari	m	
Release OR Actua		ate Minor	
Potentia	Section and the section of the secti	Percent 0.0%	
>>Programmatic Matrix			
Falsification	Major Moder		
	x	Percent 5.0%	-
Matrix Notes	100% of th	e rule requirement was not met.	
L. C.			
		Adjustment \$4,750	
			\$250
Violation Events			
Number of	Violation Events 1	83 Number of violation days	
	daily		XX HIGH
	weekly		
mark only one	monthly quarterly	Violation Base Penalty	\$250
with an x	semiannual	, , , , , , , , , , , , , , , , , , ,	1
	annual		
	Single event <u>x</u>	ECTED B	
	One si	ngle event is recommended.	
Encourage and the second secon			+(2
Good Faith Efforts to Com	iply 25 Before I	.0% Reduction NOV NOV to EDPRP/Settlement Offer	\$62
	Extraordinary		
	Ordinary x		
	N/AI	(mark with x)	
		pondent came into compliance on December 21, 1, prior to the NOE dated January 18, 2012.	3333
	L 201	Typing to the hote dates suited y tay tart.	
		Violation Subtotal	\$188
Economic Benefit (EB) for	this violation	Statutory Limit Test	
			1212
Estima	ted EB Amount	\$6 Violation Final Penalty Total	\$218
	This	violation Final Assessed Penalty (adjusted for limits)	\$218

leg. Ent. Reference No	RN100890235)					
Media	Used Oil					Percent Interest	Years of
Violation No	. 1						Depreciation
						5.0	1
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	1 No commas or \$						
		c:cocc:ccccccccccccccc					
Delayed Costs	š					,,,	
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)		ll		0.00	\$0	\$0	\$0
Engineering/construction		l		0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	29-Sep-2011	21-Dec-2011	0.23	\$6	n/a	\$6 \$0
Other (as needed)		الـــــالـ	9	0.00	\$0	n/a l	30
Nation for DELAYED cooks	Estimated cos	ts to obtain a regi				ed is the investigation	n date and the
Notes for DELAYED costs			final date is	the da	ite of compliance.		
Avoided Costs			final date is	the da enterir	ite of compliance.	for one-time avoic	led costs)
Avoided Costs			final date is	the da	ite of compliance. ig item (except \$0	for one-time avoid	led costs) \$0
Avoided Costs Disposal Personnel			final date is	the da enterir 0.00 0.00	ite of compliance. ng item (except in the second s	for one-time avoid \$0 \$0	led costs) \$0 \$0
Avoided Costs Disposal Personnel spection/Reporting/Sampling			final date is	the da enterir 0.00 0.00	ng item (except solutions) \$0 \$0 \$0 \$0	For one-time avoic \$0 \$0 \$0	s0
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment			final date is	enterin 0.00 0.00 0.00 0.00	te of compliance. ng item (except	for one-time avoic \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0
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Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]			final date is	enterir 0.00 0.00 0.00 0.00 0.00	te of compliance. ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]			final date is	enterir 0.00 0.00 0.00 0.00 0.00	te of compliance. ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)			final date is	enterir 0.00 0.00 0.00 0.00 0.00	te of compliance. ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]			final date is	enterir 0.00 0.00 0.00 0.00 0.00	te of compliance. ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)			final date is	enterir 0.00 0.00 0.00 0.00 0.00	te of compliance. ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

Penalty Calculation Worksheet (PCW) Policy Revision 3 (September 2011) PCW Revision August 3, 2011 Assigned 23-Jan-2012 Screening 24-Jan-2012 PCW 24-Jan-2012 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent DuraTherm, Inc. Reg. Ent. Ref. No. RN100890235 Facility/Site Region 12-Houston Major/Minor Source Major **CASE INFORMATION** Enf./Case ID No. 43404 No. of Violations 7 Docket No. 2012-0236-MLM-E Order Type 1660 Media Program(s) Industrial and Hazardous Waste Government/Non-Profit No Multi-Media Used Oil Enf. Coordinator Mike Pace EC's Team Enforcement Team 6 Admin. Penalty \$ Limit Minimum Maximum \$25,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$41,250 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. Compliance History Subtotals 2, 3, & 7 \$4,950 12.0% Enhancement Enhancement for one NOV with similar violations, four NOVs with Notes dissimilar violations, and a reduction for one Notice of Audit. \$0 Culpability No 0.0% Enhancement Subtotal 4 The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$9,185 **Economic Benefit** 0.0% Enhancement* Subtotal 6 \$0 Total EB Amounts *Capped at the Total EB \$ Amount \$71 Approx. Cost of Compliance SUM OF SUBTOTALS 1-7 \$37,015 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0 Reduces or enhances the Final Subtotal by the indicated percentage. Notes Final Penalty Amount \$37,015

\$37,015

-\$7,403

\$29,612

Final Assessed Penalty

Reduction Adjustment

20.0%

STATUTORY LIMIT ADJUSTMENT

PAYABLE PENALTY

Notes

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

DEFERRAL

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Screening Date 24-Jan-2012

Docket No. 2012-0236-MLM-E

Respondent DuraTherm, Inc.

Case ID No. 43404

Reg. Ent. Reference No. RN100890235

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Pace

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component Number of...

Enter Number Here Ac

Component	Number of	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	4	8%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	the first of the second	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	6. a catalogical description	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	the contract of the contract o	-1%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%

Please Enter Yes or No Environmental management systems in place for one year or more 0% No Voluntary on-site compliance assessments conducted by the executive director 0% No under a special assistance program Other Participation in a voluntary pollution reduction program 0% No Early compliance with, or offer of a product that meets future state or federal No 0% government environmental requirements

Adjustment Percentage (Subtotal 2) 12

12%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3)

0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7)

0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with similar violations, four NOVs with dissimilar violations, and a reduction for one Notice of Audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

12%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

12%

	ning Date		PCW
		·	n 3 (September 2011)
	ise ID No.		evision August 3, 2011
Reg. Ent. Refe			
		Industrial and Hazardous Waste	
할 수 있는 그 이 이 이 이 이 이 이 있습니다. 그 이 이 이 이 이 이 이 이 이 이 이 이 이 이 이 이 이 이	ordinator ion Number	MIKE PACE	
		(a.:19):	
	Rule Cite(s)		
		No. 50355, Provision Nos. IV-A and IV-B	
		Falled to prevent the acceptance of a shipment of unauthorized hazardous waste at	
Violation	Description	the Facility. Specifically, the Respondent accepted and processed a shipment of corrosive hazardous waste (hazardous waste code D002) that the Facility was not	
		authorized to accept and process.	
-	İ		
		Base Penalty	\$25,000
>> Environmen	tal, Proper	ty and Human Health Matrix	
	Release	Harm Major Moderate Minor	
OR	Actual		
	Potential	Percent 15.0%	
>>Programmati	ic Matrix		
F	Falsification	Major Moderate Minor	
L		Percent 0.0%	
F			
Matrix		n or the environment has been exposed to insignificant amounts of pollutants which	
Notes	do not exceed	levels that are protective of human health or environmental receptors as a result of the violation.	
L		ule violation.	
		Adjustment \$21,250	
		Aujustinent 321,230	
			\$3,750
Violation Events	3		erecono
	Number of	Violation Events 1 83 Number of violation days	
	Number of	Violation Events 1 83 Number of violation days	
- Andrews		daily	
		weekly IIIIIIIIIII	
		monthly Hillian San	
	mark only one with an x	quarterly Violation Base Penalty	\$3,750
	with all X	semiannual Communication	
		annual	
		single event x	
F			
		One single event is recommended for the shipment.	
L			
Good Faith Effo	rts to Com	ply 25.0% Reduction	\$937
		Before NOV NOV to EDPRP/Settlement Offer	
		Extraordinary Extraordinary	
		Ordinary	3
		N/A (mark with x)	
		The Respondent came into compliance on December 21,	
		Notes 2011, prior to the Notice of Enforcement ("NOE") dated	
		January 18, 2012.	
			12 27-
		Violation Subtotal	\$2,813
Economic Benel	it (FR) for	this violation Statutory Limit Test	
remonne bener	ic (CD) IOF	tino violation Statutory Limit Test	
	Estimat	ed EB Amount \$11 Violation Final Penalty Total	\$3,263
		This violation Final Assessed Penalty (adjusted for limits)	\$3,263

	E	conomic	Benefit	Wo	rksheet		
Respondent	DuraTherm, Ir	ıc.	-			2006.00 (0.000)	
Case ID No.							
Rea. Ent. Reference No.	RN100890235						
		Hazardous Waste	2			Percent Interest	Years of
Violation No.	1					Percent Interest	Depreciation
•						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs						,	
Equipment				0.00	\$0	\$0	\$0
Buildings		l		0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$Ò
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,000	29-Sep-2011	21-Dec-2011	0.23	\$11	n/a	\$11
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs				dat	te.	d the final date is th	
Avoided Costs	ANNUAL	IZE [1] avoided	costs before			for one-time avoid	
Disposal				0.00		\$0	\$0
Personnel				0.00	\$0	\$0	\$0
nspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]		ļ		0.00	\$0	\$0	<u>\$0</u>
Other (as needed)				0.00	l \$0	\$0	\$0
Notes for AVOIDED costs							

Screening Da	te 24-Jan-2012	Docket No. 2012-0236-MLM-E	PCW
: . ; : : . : : : : : : : : : : : :	nt DuraTherm, Inc.		Policy Revision 3 (September 2011)
Case ID N Reg. Ent. Reference N	P198313		PCW Revision August 3, 2011
	e] Industrial and Hazardous	Waste	
Enf. Coordinat			
Violation Numl	A company of the comp		
Rule Cite		§§ 335.152(a)(8) and 305.125 and 40 Code Of F 4.193(e)(1)(iii) and IHW Permit No. 50355, Provi II-C-2-h and V-B-3	
Violation Descript	secondary containment crack about four feet lon 30 and FPV-31, the cor joining the concrete t secondary containment for Registration ("NOR") Unit	ndary containment free of gaps and cracks. Spec A for tanks PV-18 through PV-21 had a concrete g near PV-20. Secondary containment A-1 for ta stainment wall indicated some erosion and the wa base had a gap of approximately two inches. Also or container storage area ("CSA")-2 Roll-off area, 044, Permitted unit 01, had loose welding and the developed large open areas from missing panels	coating inks FPV- all edge o, the Notice of ne wall on:
		Base	e Penalty \$25,000
>> Environmental, Prop		h Matrix	
Relea OR Act	Harm ase Major Moderati tual		
Poter	itial X	Percent 15.0%	
>>Programmatic Matri	X		
Falsificati			
		Percent 0.0%	
	ld not exceed levels that are p	or could be exposed to significant amounts of po rotective of human health or environmental rece sult of the violation.	
		Adjustment	\$21,250

			\$3,750
Violation Events			
			d
Number	of Violation Events 2	117 Number of violation	uays
mark only o	daily weekly monthly		
with an x	quarterly x semiannual annual single event	Violation Base	e Penalty \$7,500
Two qua		d from the September 29, 2011 investigation dat 24, 2012 screening date.	e to the
Good Faith Efforts to Co	omply 10.0	% Reduction V NOV to EDPRP/Settlement Offer	\$750
	Extraordinary		
	Ordinary		
	N/A	(mark with x)	
		ondent came into compliance on February 15, 2, after the NOE dated January 18, 2012.	
		Violation	Subtotal \$6,750
Economic Benefit (EB)	for this violation	Statutory Limit	Test
Estir	mated EB Amount	\$53 Violation Final Pena	olty Total \$7,650
		violation Final Assessed Penalty (adjusted fo	
	INIS	violation Filiai Assesseu Penalty (aujusted 10	7 mmc3) \$7,000

Media Violation No.		Hazardous Waste	!			Percent Interest	Years of Depreciation
violation no.	_					5.0	1.
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
National Assess							
Delaved Costs Equipment		T I		0.00	\$0	<u>\$0</u>	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)		1		0.00	\$0	\$0	\$0
Engineering/construction	\$2.000	29-Sep-2011	15-Feb-2012	0.38	\$3	\$51	\$53
Land	*****			0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Permit Costs Other (as needed)	Estimated c	ost to maintain se		0.00 iment.	\$0 \$0 The date required	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	\$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs			final date	0.00 iment. is the c	\$0 \$0 The date required compliance date. ng item (except	n/a n/a is the investigation for one-time avoid	\$0 date and the led costs)
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal			final date	0.00 iment. is the c enterio 0.00	\$0 \$0 The date required compliance date. ng item (except \$0	n/a n/a is the investigation for one-time avoid \$0	\$0 date and the led costs) \$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel			final date	0.00 iment. is the c enterio 0.00 0.00	\$0 \$0 The date required compliance date. ng item (except \$0 \$0	n/a n/a is the investigation for one-time avoid \$0 \$0	\$0 date and the led costs) \$0 \$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel ction/Reporting/Sampling			final date	0.00 ment. is the c enterio 0.00 0.00	\$0 \$0 The date required compliance date. ng item (except \$0 \$0 \$0	n/a n/a n/a is the investigation for one-time avoic \$0 \$0 \$0 \$0	\$0 date and the led costs) \$0 \$0 \$0 \$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel ction/Reporting/Sampling Supplies/equipment			final date	0.00 iment. is the c entering 0.00 0.00 0.00 0.00	\$0 \$0 The date required compliance date. ng item (except \$0 \$0 \$0 \$0	n/a n/a n/a is the investigation for one-time avoid \$0 \$0 \$0 \$0	\$0 date and the led costs) \$0 \$0 \$0 \$0 \$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel ction/Reporting/Sampling			final date	0.00 ment. is the c enterio 0.00 0.00	\$0 \$0 The date required compliance date. ng item (except \$0 \$0 \$0	n/a n/a n/a is the investigation for one-time avoic \$0 \$0 \$0 \$0	\$0 date and the led costs) \$0 \$0 \$0 \$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel			final date	0.00 iment. is the c enterio 0.00 0.00	\$0 \$0 The date required compliance date. ng item (except \$0 \$0	n/a n/a is the investigation for one-time avoid \$0 \$0	

Case ID No. Reg. Ent. Reference No. Media [Statute]	DuraTherm, Inc. 43404 RN100890235 Industrial and Hazardous Waste	PCW (September 2011) on August 3, 2011
Enf. Coordinator Violation Number		
Rule Cite(s)		
	30 Fex. Admin. Code 9 333.5(c) and five Fernix No. 30333, Frovision No. 11-C-12-11	
Violation Description	Failed to update the Facility's NOR regarding waste management activities. Specifically, the NOR was not updated to show the regulatory status for unit 060, the unit number on the permit and regulatory status for unit 068, the unit number on the permit for unit 069, update the description box comment for unit 059, unit number for CSA-3, and primary Facility contact information.	
	Base Penalty	\$25,000
S Emilianus ant I Deans	rty and Human Health Matrix	
>> cilvironinental, Froper	Harm	***************************************
Release OR Actual		
Potential		1
>>Programmatic Matrix		
>>Programmatic Matrix Falsification	Major Moderate Minor	
	X Percent 15.0%	***************************************

Matrix Notes	100% of the rule requirement was not met.	***************************************
Notes		***************************************
	Adjustment \$21,250	
\$21333333333333333333333333333333333333	•	\$3,750
	<u> </u>	\$3,730
Violation Events		T P 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2
Number of \	Violation Events 1 19 Number of violation days	
		00.00
	daily weekly	
	monthly Ellipsia	
mark only one with an x	quarterly Violation Base Penalty	\$3,750
·	semiannual annual	
THE STATE OF THE S	single event x	
	One single event is recommended.	
Good Faith Efforts to Com	1ply 25.0% Reduction	\$937
	Before NOV NOV to EDPRP/Settlement Offer	
Teach transfer and the second	Extraordinary Ordinary x	
	N/A (mark with x)	
·	Notes The Respondent came into compliance on October 18, 2011, prior to the NOE dated January 18, 2012.	
	Violation Subtotal	\$2,813
		Ψ2,013
Economic Benefit (EB) for	r this violation Statutory Limit Test	
Estimat	ted EB Amount \$1 Violation Final Penalty Total	\$3,263
	This violation Final Assessed Penalty (adjusted for limits)	\$3,263
		+=/

	E V	conomic	Benefit	WO	rksheet		
Respondent	DuraTherm, Ir	1C.		444444444		***************************************	
Case ID No.	43404						
tea, Ent. Reference No.	e contract of the contract of						
		Hazardous Waste					Years of
Violation No.		Tidzai dous Waste				Percent Interest	Depreciation
Violation No.	J			46-4550-111			
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
3377777777777777777777777777777777777							
Delayed Costs							
Equipment		i i		0.00	\$0	\$0	\$0
Buildings		i i		0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	Estate All III.			0.00	\$0	n/a	\$0
							90
Other (as needed)	\$200 Estimated cos		18-Oct-2011	0.05	\$1	n/a	i (1)
Notes for DELAYED costs	Estimated cos	st to update the Fa	acility's NOR. T is the	0.05 he date e compl	\$1 e required is the ir liance date.	n/a nvestigation date an	\$1 d the final date
Notes for DELAYED costs Avoided Costs	Estimated cos	st to update the Fa	acility's NOR. T is the	0.05 he date compl	\$1 e required is the in liance date, ng item (except	n/a nvestigation date an for one-time avoid	\$1 d the final date ded costs)
Notes for DELAYED costs Avoided Costs Disposal	Estimated cos	st to update the Fa	acility's NOR. T is the	ne date comple entering	\$1 e required is the in liance date, ng item (except \$0	n/a nvestigation date an for one-time avoid	\$1 d the final date ded costs) \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel	Estimated cos	st to update the Fa	acility's NOR. T is the	he date complete complete comp	\$1 e required is the in liance date, ng item (except \$0 \$0	n/a evestigation date an for one-time avoid \$0 \$0	\$1 d the final date ded costs) \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling	Estimated cos	st to update the Fa	acility's NOR. T is the	0.05 he date complete	\$1 e required is the inliance date, ng item (except \$0 \$0 \$0	n/a nvestigation date an for one-time avoid \$0 \$0 \$0 \$0	\$1 d the final date ded costs) \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment	Estimated cos	st to update the Fa	acility's NOR. T is the	0.05 he date complementaring 0.00 0.00 0.00 0.00	\$1 e required is the inliance date. ng item (except \$0 \$0 \$0 \$0 \$0	n/a nvestigation date an for one-time avoid \$0 \$0 \$0 \$0 \$0	\$1 d the final date ded costs)
Avoided Costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated cos	st to update the Fa	acility's NOR. T is the	0.05 he date complementering 0.00 0.00 0.00 0.00 0.00 0.00	\$1 e required is the inliance date, ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a nvestigation date an for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$1 d the final date ded costs)
Avoided Costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated cos	st to update the Fa	acility's NOR. T is the	enterii 0.00 0.00 0.00 0.00 0.00 0.00	\$1 e required is the inliance date, ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a nvestigation date an for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$1 d the final date ded costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated cos	st to update the Fa	acility's NOR. T is the	0.05 he date complementering 0.00 0.00 0.00 0.00 0.00 0.00	\$1 e required is the inliance date, ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a nvestigation date an for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$1 d the final date ded costs)
Avoided Costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated cos	st to update the Fa	acility's NOR. T is the	enterii 0.00 0.00 0.00 0.00 0.00 0.00	\$1 e required is the inliance date, ng item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a nvestigation date an for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$1 d the final date ded costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

Screening Date		Docket No. 2012-0236-MLM-E	PCW
	DuraTherm, Inc.		Policy Revision 3 (September 2011)
Case ID No.			PCW Revision August 3, 2011
Reg. Ent. Reference No.	3		
	Industrial and Hazardous	Waste	***************************************
Enf. Coordinator	· Francisco Control Control Control		The state of the s
Violation Number	l		
Rule Cite(s)	30 Tex. Admin. Code §	335.152(a)(4) and 40 CFR § 262.20 and IHW Per	mit No.
		50355, Provision No. II-C-1-h	
Violation Description	005440020 JJK, 00537	anifest for rejected wastes. Specifically, waste ma 3755 JJK, and 006442062 JJK were received and p a sent back to generator without a new manifest. Base	
			-
>> Environmental, Prope			www.
Release	Harm • Major Moderat		round
OR Actua			
Potentia		Percent 0.0%	
	· [Lasting and Association of the Association of th		
>>Programmatic Matrix			
Falsification	Major Moderat	te Minor	
	X	Percent 15.0%	
-			
Matrix Notes	100% of the	rule requirement was not met.	
Notes			
		Adjustment	\$21,250
			62.750
			\$3,750
Violation Events			
1101011011 = 1 = 11 = 1			
Number of	Violation Events 3	Number of violation d	ays
	Line in the second	Linear annual de la company de	•
mark only one with an x	daily weekly monthly quarterly	Violation Base	Penalty \$11,250
	semiannual annual Single event x		
	Three single events a	re recommended (one for each manifest).	
Good Faith Efforts to Con		0% Reduction	\$2,812
	Before NO	OV NOV to EDPRP/Settlement Offer	
	Extraordinary		
	Ordinary x		
	N/A	(mark with x)	
	NOTACIL	spondent came into compliance on October 18, 1, prior to the NOE dated January 18, 2012.	
		Violation 9	
Economic Benefit (EB) fo	r this violation	Statutory Limit	Test
Estima	ted EB Amount	\$1 Violation Final Pena	ity Total \$9,788
2001110			
	This	violation Final Assessed Penalty (adjusted fo	r limits) \$9,788

Media Violation No.		Hazardous Waste				Percent Interest	Years of Depreciation
Violation ivo.	•					5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delaved Costs							
Equipment	r	T T		0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	29-Sep-2011	18-Oct-2011	0.05	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
i crimic costs	B			0.00		IVe	
Other (as needed)	Estimated co	st to update the o	perating proced	0.00	\$0	n/a n/a stes are received w	\$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	Th	e date required is	the investigation	0.00 lure to on date	\$0 ensure that all wa and the final date	n/a	\$0 ith a manifest. late. ded costs) \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	Th	e date required is	the investigation	0.00 dure to n date enterin 0.00 0.00 0.00	\$0 ensure that all wa and the final date 19 item (except \$0 \$0 \$0 \$0 \$0	ri/a stes are received w is the compliance of for one-time avoid \$0 \$0 \$0 \$0 \$0	\$0 ith a manifest. late. ded costs) \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling	Th	e date required is	the investigation	0.00 dure to on date enterin 0.00 0.00 0.00 0.00 0.00	ensure that all wa and the final date 19 item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	stes are received w is the compliance of for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 ith a manifest. late. ded costs) \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment	Th	e date required is	the investigation	0.00 dure to on date enterin 0.00 0.00 0.00 0.00 0.00	ensure that all wa and the final date 1g item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	stes are received w is the compliance of for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 ith a manifest. late. ded costs) \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Th	e date required is	the investigation	0.00 dure to on date enterin 0.00 0.00 0.00 0.00 0.00	ensure that all wa and the final date 19 item (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	stes are received w is the compliance of for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 ith a manifest. late. ded costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0

Reg. Ent. Reference No. 1910:0890235 Media [Statute] Industrial and Hazardous Waste Ent. Coordinator Nike Pace Violation Number Rule Cite(s) Rule Cite(s) Rule Cite(s) Rule Cite(s) Rule Cite(s) Rule Cite(s) Violation Description Violation Description Violation Description Failed to maintain hazardous waste containers in a CSA closed except when adding or removing wastes. Specifically, the investigator noted one open container of nazardous waste in CSA-2 NOR first 044. **September 1. September 1. Septemb	PCW ion 3 (September 2011)	Screening Date 24-Jan-2012 Docket No. 2012-0236-MLM-E Respondent DuraTherm, Inc. Policy Revision	
Violation Number Rule Cite(s) 3.0 Tex. Admin. Code §§ 335.69(a)(1)(A) and 335.112(a) and 40 CFR §§ 262.34(c)(1)() and 265.173(a) and InW Permit No. 50355, Provision No. 11-C-1 Falled to maintain hazardous waste containers in a CSA closed except when adding or removing wastes. Specifically, the investigator noted one open container of hazardous waste in CSA-2 NOR Unit 044. See Penalty 925,000 See Penalty 925,000 See Percent 925,0		Case ID No. 43404 PCW RI Reg. Ent. Reference No. RN100890235 Media [Statute] Industrial and Hazardous Waste	R
Violation Description Release Major Moderate Minor Moderate Minor Percent 30.0% >> Environmental, Property and Human Health Matrix Harm Moderate Minor Percent 30.0% >> Programmatic Matrix Notes Human health or the environment will or could be exposed to pollutaris which would exceed levels that are protective of human health or environmental receptors as a result of the violation. Notes Human health or the environment will or could be exposed to pollutaris which would exceed levels that are protective of human health or environmental receptors as a result of the violation. Violation Events Number of Violation Events 1 19 Number of violation days Violation Events Number of Violation Events 1 19 Number of violation days Society Soci	THE PROPERTY OF THE PROPERTY O	Violation Number 5	
Violation Description or removing wastes. Specifically, the investigator noted one open container of hazardous waste in CSA:2 NOR Unit 044. Base Penalty 925,000 >> Environmental, Property and Human Health Matrix Harm Release Major Moderate Minor Percent 30.0% >> Programmatic Matrix Faisfication Major Moderate Minor Percent 0.0% Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation. Adjustment \$17,500		30 Tex. Admin. Code §§ 335.69(a)(1)(A) and 335.112(a) and 40 CFR §§	
>> Environmental, Property and Human Health Matrix Harm Release Major Moderate Minor	to pre-procedure or restorated to the control of th	Violation Description or removing wastes. Specifically, the investigator noted one open container of	**************************************
Name	\$25,000	Base Penalty	
Name	Paramogarino (A	> Environmental, Property and Human Health Matrix	>>
>> Programmatic Matrix Falsification Major Moderate Minor Percent 0.0%	to produce pro	Harm	
>>Programmatic Matrix Falsification Major Moderate Minor Percent 0.0% Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation. Adjustment \$17,500 \$7,500 Violation Events: Number of Violation Events 1 19 Number of violation days daily	maconni	OR Actual	0
Falsification Major Moderate Minor Percent 0.0% Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation. **Adjustment** \$17,500 \$7,500 Violation Events Number of Violation Events 1 19 Number of violation days Violation Base Penalty \$7,500	NACI TO ANAMA		
Matrix Notes	AAAAAAA	-	>>1
Notes that are protective of human health or environmental receptors as a result of the violation. Adjustment		Percent 0.0%	
Notes that are protective of human health or environmental receptors as a result of the violation. Adjustment		Matrix Human health or the environment will or could be exposed to pollutants which would exceed levels	
Violation Events Number of Violation Events 1			
Violation Events Number of Violation Events 1		Adjustment \$17.500	
Violation Events	\$7,500		**********
daily weekly monthly quarterly semiannual single event x	* * * * * * * * * * * * * * * * * * * *	iolation Events	Viol
Weekly	***************************************	Number of Violation Events 1 19 Number of violation days	
Good Faith Efforts to Comply 25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A Notes The Respondent came into compliance on October 18, 2011, prior to the NOE dated January 18, 2012. Violation Subtotal \$5,625 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$1,875 Violation Final Penalty Total \$6,525	\$7,500	weekly monthly mark only one with an x weekly monthly quarterly violation Base Penalty	-
Good Faith Efforts to Comply 25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A (mark with x) The Respondent came into compliance on October 18, 2011, prior to the NOE dated January 18, 2012. Violation Subtotal \$5,625 Economic Benefit (EB) for this violation \$1,875 **Estimated EB Amount** Violation Final Penalty Total \$6,525		The state of the s	www.es.es.es.es.es.es.es.es.es.es.es.es.es.
Before NOV NOV to EDPRP/Settlement Offer Extraordinary		One single event is recommended.	
Before NOV NOV to EDPRP/Settlement Offer Extraordinary	\$1,875	iood Faith Efforts to Comply 25.0% Reduction	Gor
Ordinary x (mark with x) Notes The Respondent came into compliance on October 18, 2011, prior to the NOE dated January 18, 2012. Violation Subtotal \$5,625 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$1 Violation Final Penalty Total \$6,525		Before NOV NOV to EDPRP/Settlement Offer	*********
Notes The Respondent came into compliance on October 18, 2011, prior to the NOE dated January 18, 2012. Violation Subtotal \$5,625 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$1 Violation Final Penalty Total \$6,525			
Violation Subtotal \$5,625 Economic Benefit (EB) for this violation \$1 Violation Final Penalty Total \$6,525	Para Para Para Para Para Para Para Para		
Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$1 Violation Final Penalty Total \$6,525		NOTACII	
Estimated EB Amount \$1 Violation Final Penalty Total \$6,525	\$5,625	Violation Subtotal	
		conomic Benefit (EB) for this violation Statutory Limit Test	Eco
This violation Final Assessed Penalty (adjusted for limits) \$6,525	\$6,525	Estimated EB Amount \$1 Violation Final Penalty Total	
	\$6,525	This violation Final Assessed Penalty (adjusted for limits)	

		conomic	Benefit	Wo	rksheet		
Respondent	•	nc.					
Case ID No.							
Rea. Ent. Reference No.							
		Hazardous Waste				Percent Interest	Years of
Violation No.	. 5		BARRAGARA BARRAGA BARRAGA AND AND AND AND AND AND AND AND AND AN	National automatics			Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
ऽच । १९२५ वर्ष वर्ष प्रमाणनाम् । १९५५ वर्षा । १९५५ वर्षा १९५५ वर्षा । १९५५ वर्षा १९६४ वर्षा १९६४ वर्षा १९६४ वर्षा १९	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$		- Company of the second of the		*************************		
Delaved Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$ 0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal		ļ		0.00	\$0	n/a	\$0
Permit Costs Other (as needed)	\$500	29-Sep-2011	400 - 504	0.00	\$0 \$1	n/a n/a	\$0 \$1
Notes for DELAYED costs					nvestigation date a	ontainers are closed and the final date is	
Avoided Costs	ANNUAL	IZE [1] avoided	costs before	enteri	ng item (except	for one-time avoid	led costs)
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]		JAN SEE STATE OF THE SECOND		0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance	-	\$500			TOTAL		\$1

Screening Date		PCW
Respondent Case ID No.	· · · · · · · · · · · · · · · ·	n 3 (September 2011) evision August 3, 2011
Reg. Ent. Reference No.		evision August 3, 2011
Media [Statute]	Industrial and Hazardous Waste	
Enf. Coordinator		
Violation Number Rule Cite(s)		
Rule Che(s)	30 Tex. Admin. Code § 335.9(a)(1)(G)	
	Failed to maintain records of hazardous and industrial solid waste activities.	
Violation Description	Specifically, at the time of the investigation, the Respondent could not provide records showing the location of satellite accumulation areas.	
	Base Penalty	\$25,000
>> Environmental, Proper	ty and Human Health Matrix	
Release	Harm Major Moderate Minor	
OR Actual		
Potential	Percent 0.0%	
>>Programmatic Matrix		
Falsification	Major Moderate Minor	
	X Percent 15.0%	
Matrix	100% of the rule requirement was not met.	
Notes		
	Adjustment \$21,250	
	·	+2.750
		\$3,750
Violation Events		
Number of	Violation Events 1 19 Number of violation days	
Number of	Violation Events 17 17 17 17 17 17 17 17 17 17 17 17 17	
	dally	
	weekly monthly	
mark only one with an x	quarterly Violation Base Penalty	\$3,750
7000	semiannual	***
	annual single event x	
	One single event is recommended.	
	One single eveness recommended.	
		\$937
Good Faith Efforts to Com	ply 25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer	\$937
*	Extraordinary Extraordinary	
	Ordinary x	
	N/A (mark with x)	
	Notes Notes NOE dated January 18, 2012	
	Notes 2011, prior to the NOE dated January 18, 2012.	-
	Violation Subtotal	\$2,813
		Ψ2,013
Economic Benefit (EB) for	this violation Statutory Limit Test	
Estimat	ed EB Amount \$1 Violation Final Penalty Total	\$3,263
	This violation Final Assessed Penalty (adjusted for limits)	\$3,263
	This violation I that Assessed Femaley (adjusted for fillings)	40,200

		conomic	Denem		LKZHEEL		
Kesponaent	DuraTherm, I	nc.					
Case ID No.	43404						
ea, Ent. Reference No.	RN100890235						
Media	Industrial and	Hazardous Waste	:				Years of
Violation No.						Percent Interest	Depreciation
Violation ito:						5.0	15
		n	Pius Nuta				
		Date Required	Final Date	rrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delaved Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings		100000000000000000000000000000000000000		0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	29-Sep-2011	18-Oct-2011	0.05	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAVED costs	Estimated cos					imulation areas. Th	e date required
Supplies/equipment Financial Assurance [2]		is the inves	tigation date ar	nd the f	final date is the co		
Avoided Costs Disposal Personnel aspection/Reporting/Sampling Supplies/equipment		is the inves	tigation date ar	enterio 0.00 0.00 0.00 0.00	final date is the co	mpliance date. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]		is the inves	tigation date ar	enterin 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00	final date is the congress tem (except \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	mpliance date. for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

PCW	Docket No. 2012-0236-MLM-E		Screening Date
3 (September 2011)	•	nt DuraTherm, Inc.	
vision August 3, 2011	PCW Revisi		Case ID No.
			g. Ent. Reference No.
		e] Industrial and Hazardous	
		A CONTRACTOR OF THE PROPERTY O	Enf. Coordinator Violation Number
	5.112(a)(21) and 335.152(a)(19) and 40 CFR §§		Rule Cite(s)
	.1089(b) and 265.1090(b)	(3)	Rule Cite(3)
			İ
	the air emission control equipment. Specifically, the	Failed to record inchert	
	in a record of the Subpart CC tank inspections for		Violation Description
	odors and visual observations.		• .
\$25,000	Base Penalty		
	atrix	perty and Human Hea	nvironmental, Proper
	Minor	Harn ase Major Modera	Release
			Actual
	Percent 0.0%		Potential
		(terminal de la constitución de	
			ogrammatic Matrix
	Minor		Falsification
	Percent 15.0%	l x l	
			Matrix
	equirement was not met.	100% or th	Notes
			<u>Linii ilia</u>
	Adjustment \$21,250		
\$3,750			
			tion Events
	19 Number of violation days		
	The state of the s		
		daily	
		weekly	
		monthly	mark only one
\$3,750	Violation Base Penalty	quarterry	with an x
		semiannual	
		annual	
		single event <u>x</u>	
			80.688.0088.4888.00888888
	ent is recommended.	One si	
			Pariabulanianianiani
\$937	eduction	omply 25.	Faith Efforts to Com
	OV to EDPRP/Settlement Offer	Before N	
		Extraordinary	
		Ordinary x	
	nark with x)	N/A	
	ent came into compliance on October 18,	The Re	
	r to the NOE dated January 18, 2012.		
£2 Q12	Violation Cubtatal		
\$2,813	Violation Subtotal		
	Statutory Limit Test	for this violation	omic Benefit (EB) for
	990000000		
\$3,263	\$2 Violation Final Penalty Total	mated EB Amount	Estimat
\$3,263	tion Final Assessed Penalty (adjusted for limits)	This	
43,203	are a mar Assessed rendity (dayasted for mints)	Turs	

	Industrial and	Hazardous Waste	:			Percent Interest	Years of Depreciation
Violation No.	7 					5.0	\$500,00 % Description of the second
	74 6	Data Damiliand	Final Date	V	Interest Caucil	5.0 Onetime Costs	1 EB Amount
• •	Item Cost	Date Required	Fillal Date	115	Interest saveu	Offethine Costs	CD Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment		ı —		0.00	\$0	\$0	\$0
Buildings				0.00	\$0 \$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction		i i i i i i i i i i i i i i i i i i i		0.00	\$0	\$0	\$0
Land	***************************************	i i		0.00	\$0	n/a	\$0
Record Keeping System	\$500	29-Sep-2011	18-Oct-2011	0.05	\$1	n/a	\$1
				0.00	\$0	n/a	\$0
iraining/Sampling ii							
Training/Sampling Remediation/Disposal				0.00	\$0	n/a	\$0
1				0.00	\$0 \$0	n/a n/a	\$0
Remediation/Disposal Permit Costs Other (as needed)	Estimated cos			0.00 0.00 on reco	\$0 \$0 ords of the air emis	n/a n/a ssion control equipm	\$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs		required is the i	nvestigation da	0.00 0.00 on reco	\$0 \$0 ords of the air emis the final date is th	n/a n/a n/a ssion control equipm e compliance date.	\$0 \$0 nent. The date
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs		required is the i	nvestigation da	0.00 0.00 on reco te and	\$0 \$0 ords of the air emis the final date is th ng item (except i	n/a n/a ssion control equipm e compliance date. for one-time avoic	\$0 \$0 nent. The date
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal		required is the i	nvestigation da	0.00 0.00 on reco te and enterir 0.00	\$0 \$0 ords of the air emis the final date is th og item (except i	n/a n/a n/a ssion control equipm e compliance date. for one-time avoic \$0	\$0 \$0 nent. The date led costs) \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel		required is the i	nvestigation da	0.00 0.00 on reco te and enterir 0.00 0.00	\$0 \$0 ords of the air emis the final date is th ng item (except if \$0 \$0	n/a n/a n/a ssion control equipme compliance date. for one-time avoic \$0 \$0	\$0 \$0 nent. The date led costs) \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs AVOIDED COSTS Disposal Personnel spection/Reporting/Sampling		required is the i	nvestigation da	0.00 0.00 on reco te and enterir 0.00 0.00	\$0 \$0 ords of the air emis the final date is th ordinal date is the so \$0 \$0 \$0	n/a n/a n/a ssion control equipme compliance date. for one-time avoic \$0 \$0 \$0 \$0	\$0 \$0 nent. The date led costs) \$0 \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment		required is the i	nvestigation da	0.00 0.00 on recote and enterin 0.00 0.00 0.00	\$0 \$0 birds of the air emis the final date is th ag item (except 1 \$0 \$0 \$0 \$0	n/a n/a n/a ssion control equipme compliance date. for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 nent. The date led costs) \$0 \$0 \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]		required is the i	nvestigation da	0.00 0.00 on reco te and enterin 0.00 0.00 0.00 0.00	\$0 \$0 birds of the air emis the final date is th ag item (except 1 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a ssion control equipme compliance date. for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 nent. The date led costs) \$0 \$0 \$0 \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel pection/Reporting/Sampling Supplies/equipment		required is the i	nvestigation da	0.00 0.00 on recote and enterin 0.00 0.00 0.00	\$0 \$0 birds of the air emis the final date is th ag item (except 1 \$0 \$0 \$0 \$0	n/a n/a n/a ssion control equipme compliance date. for one-time avoic \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 nent. The date led costs) \$0 \$0 \$0 \$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603349820	DuraTherm, Inc.	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN100890235	DuraTherm	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	AIR NEW SOUR AIR NEW SOUR AIR NEW SOUR AIR NEW SOUR	CE PERMITS CE PERMITS CE PERMITS	REGISTRATION ACCOUNT NUMBER AFS NUM REGISTRATION	14291 GB0101M 4816700042 85676
		CE PERMITS ND HAZARDOUS WASTE ND HAZARDOUS WASTE	REGISTRATION EPA ID SOLID WASTE REGISTRATION # (SWR)	87443 TXD981053770 34814
		ND HAZARDOUS WASTE SYSTEM/SUPPLY	PERMIT REGISTRATION PERMIT EPA ID	50355 0840217 WQ0004086000 TX0117757
	POLLUTION PR USED OIL USED OIL AIR EMISSIONS	EVENTION PLANNING SINVENTORY	ID NUMBER REGISTRATION EPA ID ACCOUNT NUMBER	P03840 A86130 TXD981053770 GB0101M
Location:	2700 AVENUE S,	SAN LEON, TX, 77539		
TCEQ Region:	REGION 12 - HO	USTON		
Date Compliance History Prepared:	January 26, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 26, 2007	to January 26, 2012		
TCEQ Staff Member to Contact for Additional Info	rmation Regarding	this Compliance History		
Name: Mike Pace	Pho	one: (817) 588-5933		
	Site Co	mpliance History Comp	onents	
1. Has the site been in existence and/or operation			YES	
2. Has there been a (known) change in ownership/	operator of the site	during the compliance period?	YES	
3. If YES , who is the current owner/operator?	1	DuraTherm, Inc.		
4. If YES , who was/were the prior owner(s)/open	rator(s)?			
	D	ouratherm Asset Acquisition Co	rp.	
5. If YES , when did the change(s) in owner or op	erator occur?	June 19, 2008		
6. Rating Date: 9/1/2011 Repeat Violator:	NO			
Components (Multimedia) for the Site A. Final Enforcement Orders, court judgm N/A		ecrees of the State of Texas and	the federal government.	
B. Any criminal convictions of the state of N/A	Texas and the feder	al government.		
C. Chronic excessive emissions events.				
N/A				
D. The approval dates of investigations. (C	CCEDS Inv. Track. N	0.)		
1 02/20/2007 (55/16	(7)			

2 04/25/2008

3 02/20/2009

(681098) (724795)

```
4 06/19/2009
                              (748483)
           5 12/10/2009
                              (797155)
                              (798705)
           6 03/17/2010
                               (799811)
             04/23/2010
          8 05/04/2010
                              (800445)
Written notices of violations (NOV). (CCEDS Inv. Track. No.)
      Date: 04/25/2008
                             (681098)
                                                                CN603349820
                                                                             Classification:
      Self Report?
                                                                                              Moderate
      Citation:
                         30 TAC Chapter 290, SubChapter F 290,109(f)(4)
                         BACT - MONITORING/REPORTING VIOLATIONS
      Description:
      Date: 02/19/2009
                                                                CN603349820
                             (724795)
      Self Report?
                                                                             Classification:
                                                                                               Major
                         30 TAC Chapter 290, SubChapter D 290.46(e)
      Citation:
                         Failure by the regulated entity to be under the direct supervision of a licensed water
      Description:
                         works operator at all times.
                                                                CN603349820
      Date: 12/10/2009
                             (797155)
      Self Report?
                                                                             Classification:
                                                                                              Moderate
      Citation:
                         30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
                         5A THSC Chapter 341, SubChapter A 341.0315(c)
                         Violated the maximum contaminant level for arsenic during the fourth quarter of 2009.
      Description:
      Date: 02/23/2010
                             (799811)
                                                                             Classification:
      Self Report?
                                                                                              Moderate
      Citation:
                         30 TAC Chapter 335, SubChapter C 335.69(a)(3)
                         40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)
      Description:
                         Failed to properly label a three cubic yard container with the words "Hazardous Waste."
      Self Report?
                     NO
                                                                             Classification:
                                                                                              Moderate
      Citation:
                         30 TAC Chapter 335, SubChapter F 335.152(a)(1)
                         40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15(d)
                         Permit Provision III.D. PERMIT
      Description:
                         Failed to adequately complete daily inspection logs on tanks, loading and unloading
                         areas, and container storage areas.
                                                                                              Moderate
      Self Report?
                      NO
                                                                             Classification:
      Citation:
                         30 TAC Chapter 335, SubChapter A 335.9(a)(1)(G)
      Description:
                         Failed to have a description of the SAAs within the facility or during the review of the
                         exit interview form.
      Date: 03/17/2010
                              (798705)
                                                                CN603349820
      Self Report?
                                                                             Classification:
                                                                                              Moderate
      Citation:
                         30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
                         5A THSC Chapter 341, SubChapter A 341.0315(c)
      Description:
                         Violated the maximum contaminant level for arsenic during the first quarter of 2010.
Environmental audits.
   Notice of Intent Date: 08/30/2011
                                          (952260)
        No DOV Associated
Type of environmental management systems (EMSs).
            N/A
Voluntary on-site compliance assessment dates.
Participation in a voluntary pollution reduction program.
Early compliance.
```

N/A

N/A Sites Outside of Texas

N/A

N/A

F.

G.

H.

J.

E.

Texas Commission on Environmental Quality



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING DURATHERM, INC. RN100890235

BEFORE THE

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TEXAS COMMISSION ON

Ş

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-0236-MLM-E

I. JURISDICTION AND STIPULATIONS

, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DuraTherm, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371, and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

- The Respondent owns and operates a waste treatment, storage, and disposal facility at 1. 2700 Avenue South in San Leon, Galveston County, Texas (the "Facility").
- The Facility involves or involved the management of industrial hazardous waste ("IHW") 2 and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
- The Executive Director and the Respondent agree that the Commission has jurisdiction 3. to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- The Respondent received notice of the violations alleged in Section II ("Allegations") on 4. or about January 23, 2012.
- The occurrence of any violation is in dispute and the entry of this Agreed Order shall not 5. constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Thirty-Seven Thousand Two Hundred Thirty-Three Dollars (\$37,233) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fourteen Thousand Eight Hundred Ninety-Four Dollars (\$14,894) of the administrative penalty

> and Seven Thousand Four Hundred Forty-Six Dollars (\$7,446) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Fourteen Thousand Eight Hundred Ninety-Three Dollars (\$14,893) shall be conditionally offset by the Respondents completion of a Supplemental Environmental Project ("SEP").

- Any notice and procedures, which might otherwise be authorized or required in this 7. action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
- The Executive Director recognizes that the Respondent has implemented the following 9. corrective measures at the Facility:
 - Developed and implemented procedures to ensure that unauthorized hazardous a. waste is not accepted or processed at the Facility on December 21, 2011;
 - Submitted documentation on February 15, 2012, showing that the secondary b. containment has been repaired;
 - Updated the Facility's Notice of Registration ("NOR") on October 18, 2011; C.
 - d. Developed and implemented procedures on October 18, 2011 to ensure that rejected wastes are properly manifested;
 - Developed and implemented procedures on October 18, 2011 to ensure that е. hazardous waste containers are kept closed except when adding or removing
 - £. Submitted documentation on October 18, 2011, showing the location of satellite accumulation areas:
 - Began maintaining a record of the tank inspections on October 18, 2011; and g.
 - Obtained a used oil registration and Environmental Protection Agency h. Identification Number ("EPA ID No.") on December 21, 2011.
- The Executive Director may, without further notice or hearing, refer this matter to the 10. Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- This Agreed Order shall terminate five years from its effective date or upon compliance 11. with all the terms and conditions set forth in this Agreed Order, whichever is later.

The provisions of this Agreed Order are deemed severable and, if a court of competent 12. jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- Failed to prevent the acceptance of a shipment of unauthorized hazardous waste at the 1. Facility, in violation of 30 Tex. ADMIN. CODE § 335.2(b) and IHW Permit No. 50355, Provision Nos. IV-A and IV-B, as documented during an investigation conducted on September 29, 2011. Specifically, the Respondent accepted and processed a shipment of corrosive hazardous waste (hazardous waste code Doo2) that the Facility was not authorized to accept and process.
- 2. Failed to maintain secondary containment free of gaps and cracks, in violation of 30 TEX. ADMIN. CODE §§ 335,152(a)(8) and 305.125 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 264.193(e)(1)(iii) and IHW Permit No. 50355, Provision Nos. II-C-2-h and V-B-3, as documented during an investigation conducted on September 29, 2011. Specifically, secondary containment A for tanks PV-18 through PV-21 had a concrete coating crack about four feet long near PV-20. Secondary containment A-1 for tanks FPV-30 and FPV-31, the containment wall indicated some erosion and the wall edge joining the concrete base had a gap of approximately two inches. Also, the secondary containment for container storage area ("CSA")-2 Roll-off area, NOR Unit 044, Permitted unit 01, had loose welding and the wall on the back side had developed large open areas from missing panels.
- Failed to update the Facility's NOR regarding waste management activities, in violation 3, of 30 Tex. ADMIN. CODE § 335.6(c) and IHW Permit No. 50355, Provision No. II-C-1-h, as documented during an investigation conducted on September 29, 2011. Specifically, the NOR was not updated to show the regulatory status for unit 060, the unit number on the permit and regulatory status for unit o68, the unit number on the permit for unit 069, update the description box comment for unit 059, unit number for CSA-3, and primary Facility contact information.
- Failed to use a new manifest for rejected wastes, in violation of 30 Tex. ADMIN. CODE § 4. 335.152(a)(4) and 40 CFR § 262.20 and IHW Permit No. 50355, Provision No. II-C-1-h, as documented during an investigation conducted on September 29, 2011. Specifically, waste manifests 005440020 JJK, 005373755 JJK, and 006442062 JJK were received and partially rejected, then sent back to generator without a new manifest.
- Failed to maintain hazardous waste containers in a CSA closed except when adding or 5. removing wastes, in violation of 30 Tex. ADMIN. CODE §§ 335.69(a)(1)(A) and 335.112(a) and 40 CFR §§ 262.34(c)(1)(i) and 265.173(a) and IHW Permit No. 50355, Provision No. II-C-1, as documented during an investigation conducted on September 29, 2011. Specifically, the investigator noted one open container of hazardous waste in CSA-2 NOR Unit 044.
- 6. Failed to maintain records of hazardous and industrial solid waste activities, in violation of 30 Tex. ADMIN. CODE § 335.9(a)(1)(G), as documented during an investigation conducted on September 29, 2011. Specifically, at the time of the investigation the

> Respondent could not provide records showing the location of satellite accumulation areas.

- Failed to record inspections of the air emission control equipment, in violation of 30 TEX. 7. ADMIN. CODE §§ 335,112(a)(21) and 335.152(a)(19) and 40 CFR §§ 264.1089(b) and 265.1090(b), as documented during an investigation conducted on September 29, 2011. Specifically, the Respondent did not maintain a record of the Subpart CC tank inspections for olfactory odors and visual observations.
- Failed to obtain a used oil registration and EPA ID. No. prior to conducting used oil 8. activities, in violation of 30 Tex. ADMIN. CODE § 324.12(2) and 40 CFR §§ 279.51 and 279.73, as documented during an investigation conducted on September 29, 2011.

TTT. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEO that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: DuraTherm, Inc., Docket No. 2012-0236-MLM-E" to:

> Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- The Respondent shall implement and complete a SEP in accordance with Tex. WATER 2. CODE § 7.067. As set forth in Section I Paragraph 6 Jurisdiction and Stipulations above, Fourteen Thousand Eight Hundred Ninety-Three Dollars (\$14,893) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
- The provisions of this Agreed Order shall apply to and be binding upon the Respondent. 3. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- If the Respondent fails to comply with any of the Ordering Provisions in this Agreed 4. Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to

the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 7. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 8. Under 30 Tex. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

	For the Commission
~	Pan Javens & 8/10/12
	For the Executive Director Date
	I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.
	I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:
	A negative impact on compliance history;
	Greater scrutiny of any permit applications submitted;
	 Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
	Increased penalties in any future enforcement actions;
	 Automatic referral to the Attorney General's Office of any future enforcement actions;
	and TCEQ seeking other relief as authorized by law.
	In addition, any falsification of any compliance documents may result in criminal prosecution.
	$\frac{\sqrt{5/5}/12}{\text{Signature}}$
	Name (Printed or typed) Title
	Authorized Representative of DuraTherm, Inc.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A Docket Number: 2012-0236-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:

DuraTherm, Inc.

Payable Penalty

Twenty-Nine Thousand Seven Hundred Eighty-

Amount:

Seven Dollars (\$29,787)

SEP Amount:

Fourteen Thousand Eight Hundred Ninety-

Three Dollars (\$14,893)

Type of SEP:

Pre-approved

Third-Party Recipient:

Galveston Bay Foundation - "Marsh Mania"

Location of SEP:

Galveston County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Galveston Bay Foundation to be used for the Galveston Bay Foundation "Marsh Mania" as set forth in the agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

DuraTherm, Inc. Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

C. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Mr. Bob Stokes, President Galveston Bay Foundation 17330 Highway 3 Webster, Texas 77598

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

DuraTherm, Inc. Agreed Order – Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

> Texas Commission on Environmental Quality Financial Administration Division, Revenues Attention: Cashier, MC 214 P.O. Box 13088 Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.